

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

SAMMIE DURANT,

PETITIONER

V.

NO. 1:05CV314-M-D

STATE OF MISSISSIPPI, ET AL,

RESPONDENTS

**ORDER REQUIRING PETITIONER TO PROVIDE INFORMATION CONCERNING
NOTICE OF APPEAL**

On December 7, 2005, this court denied the petitioner's habeas corpus petition filed under 28 U.S.C. § 2254. Petitioner filed a *pro se* notice of appeal, which is dated January 2, 2006, and which was stamped as filed on January 17, 2006. Since Rule 4(a)(1)(A), Federal Rules of Appellate Procedure, requires that notice of appeal by the defendant in a civil case be filed within 30 days of entry of the judgment or order appealed from, the final day for filing a timely notice of appeal was January 6, 2006. The United States Court of Appeals for the Fifth Circuit on April 10, 2006, ordered that this court determine whether the notice of appeal was placed in the penal institution's internal mail system on or before January 6, 2006, thus making it a timely filing.

Since the court cannot obtain the information requested by the Court of Appeals without questioning the petitioner as to when he took certain actions, it is hereby

ORDERED:

1) Petitioner shall explain to the court when notice of appeal was placed in the institution mail system. Any evidence, such as prison mail logs, should be included if available.

2) The petitioner shall file his explanation no later than 30 days from the date of this order.

The petitioner is directed to acknowledge receipt of this order by signing the enclosed acknowledgment form and returning it to the court within 10 days of this date. He is warned that

failure to comply with the requirements of this order may lead to the dismissal of his appeal under Rule 41(b), Federal Rules of Civil Procedure, for failure to prosecute and for failure to comply with an order of the court. He is further warned that failure to notify the court of any change in his mailing address may also lead to dismissal of the case.

SO ORDERED this the 20th day of April, 2006.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE